

## HOUSE BILL NO. 78

INTRODUCED BY HARRIS

BY REQUEST OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

A BILL FOR AN ACT ENTITLED: "AN ACT ELIMINATING THE REQUIREMENT THAT PRIOR TO ISSUING OR RENEWING A PERMIT TO OPERATE AN UNDERGROUND STORAGE TANK, THE DEPARTMENT OF ENVIRONMENTAL QUALITY SHALL MAKE A DETERMINATION OF FULL COMPLIANCE OR ISSUE A COMPLIANCE ORDER; AMENDING SECTION 75-11-509, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 75-11-509, MCA, is amended to read:

**"75-11-509. Inspections -- permits.** (1) The owner or operator of an active underground storage tank must have the tank inspected for compliance with this part by January 1, 2002, and at least once every 3 years thereafter by an inspector who is licensed pursuant to Title 75, chapter 11, part 2, to perform underground storage tank inspections. The inspector may not be:

(a) the owner or operator of the tank;

(b) an employee of the owner or operator; or

(c) for the first inspection required by this subsection (1) and for a period of 3 years after the installation or modification of the tank was completed, the installer who installed or modified the tank and whose name or signature was on the permit required by 75-11-212.

(2) The owner or operator of an inactive underground storage tank shall comply with requirements for testing, inspection, recordkeeping, and reporting provided in rules adopted pursuant to this part.

(3) The department may by rule authorize temporary permits for the installation, testing, and operation of underground storage tanks. The requirements in subsection (8) for a 3-year permit term and for permit issuance only after inspection by a licensed inspector do not apply to temporary permits.

(4) The department shall by rule provide:

(a) requirements for the scope and timing of inspections; and

(b) requirements for testing, inspection, recordkeeping, and reporting for inactive tanks to ensure that

1 these tanks do not pose a threat to public health, safety, or the environment while inactive or upon their return  
2 to active status.

3 (5) The inspector shall provide the owner or operator with an inspection report that meets the  
4 requirements of rules adopted by the department to ensure compliance with this part and rules adopted pursuant  
5 to this part.

6 (6) The owner or operator shall retain the original inspection report and mail a copy to the department.

7 (7) If the inspection report indicates violations, the owner or operator shall correct the violations and  
8 obtain a followup inspection. Followup inspection reports must be provided to the owner or operator and to the  
9 department.

10 (8) A person may not place a regulated substance in an underground storage tank unless the owner  
11 or operator has been issued a valid permit from the department for the tank. Permits must be issued for a term  
12 of 3 years. The department may not issue or renew a permit unless the owner or operator has filed with the  
13 department an inspection report by a licensed inspector. ~~Except as provided in subsection (9), prior to issuing~~  
14 ~~or renewing a permit, the department shall determine, on the basis of the inspection report and other relevant~~  
15 ~~information, that the operation and maintenance of the tank was in compliance with this part and rules adopted~~  
16 ~~pursuant to this part on the date of inspection.~~

17 ~~—— (9) The department may issue and renew permits for tanks that are not in full compliance with the~~  
18 ~~operation and maintenance requirements of this part and rules adopted pursuant to this part only if the~~  
19 ~~department requires, in a compliance order issued pursuant to 75-11-512 or 75-11-525, that the noncompliance~~  
20 ~~be corrected at the earliest practicable time. The department may also take other enforcement actions, including~~  
21 ~~actions for penalties under this chapter, and may pursue any other remedy available to the department to~~  
22 ~~address noncompliance with this part or with rules, permits, or orders issued pursuant to this part. PRIOR TO~~  
23 ~~ISSUING OR RENEWING A PERMIT, THE DEPARTMENT SHALL DETERMINE, ON THE BASIS OF THE INSPECTION REPORT AND~~  
24 ~~OTHER RELEVANT INFORMATION, WHETHER THE OPERATION AND MAINTENANCE OF THE TANK WERE IN COMPLIANCE WITH~~  
25 ~~THIS PART AND RULES ADOPTED PURSUANT TO THIS PART ON THE DATE OF INSPECTION.~~

26 ~~(10)~~(9) The department may determine to not issue or not renew a permit for a tank if the department  
27 finds that there has been significant noncompliance with this part or with rules, permits, or orders issued  
28 pursuant to this part. If the department proposes to not issue or not renew a permit, it ~~shall~~ must have a written  
29 notice letter served personally or by certified mail on the owner or operator informing the owner or operator of  
30 the reason for the action. The owner or operator may request a hearing before the board. The hearing request

1 must be in writing and must be filed with the board no later than 30 days after the service of the notice letter. The  
2 contested case provisions of the Montana Administrative Procedure Act, provided for in Title 2, chapter 4, part  
3 6, apply to a hearing conducted under this section."

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5 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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